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ABSTRACT

A brief history and some observations are given of the federal Education Amendments of 1980, amending the Higher Education Act of 1965, which provides basic authority for a variety of federal student aid and college assistance programs. Much of the current legislation is extended intact, and most of the programs are reauthorized through fiscal year 1985. A few authorizations that have never been funded (such as community college assistance) are deleted from the Higher Education Act, some of the titles are reshuffled or consolidated, and a new Title XI authorizes grants to urban universities. A title-by-title review of the legislation is provided. Notable changes or new thrusts include these: Title I (continuing education) substantially reduces barriers to continuing education for adults, particularly those whose educational needs have been inadequately served in the past; Title III (institutional aid to developing institutions) tightens application and grant review procedures and specifies in detail many operational aspects of the program; the major student aid programs of Title IV are altered; Title VI boosts foreign language, area studies, and international education programs; and Title IX (graduate programs) consolidates several existing programs and authorizes a new National Graduate Fellows Program. (MSE)

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REPORT FROM WASHINGTON

on

The 1980 Reauthorization Of

the

Higher Education Act

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A Review and Analysis
by the
Washington Office of the College Board
for
Member Institutions of the College Board
and the
College Scholarship Service Assembly
October 1980

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A nonprofit educational association serving students, schools, and colleges through programs designed to expand educational opportunity

PERSPECTIVES ON THE NEW LEGISLATION

The Education Amendments of 1980 became Public Law 96-374 with President Carter's signature on October 3.

Congressional passage seemed in doubt in early September when the Senate rejected the first House-Senate agreement on the legislation, largely because of Senate Budget Committee objections that the measure failed to control the rising federal expense of student loans. But House-Senate negotiators produced a second conference report, this time with concessions that cleared the way to final enactment.

The result of a two-year legislative process, P.L. 96-374 amends the Higher Education Act of 1965, which provides the basic authority for a variety of federal student aid and college assistance programs. Much of the current legislation is extended intact, and most of the programs are reauthorized through fiscal year 1985. A few authorizations that have never been funded (such as community college assistance) are deleted from the Higher Education Act, some of the titles are reshuffled or consolidated, and a new Title XI authorizes grants to urban universities. Notable changes or new thrusts are made in Title I (continuing education), Title III (developing institutions), Title VI (international education), Title IX (graduate programs), as well as the major student aid programs under Title IV.

Beginning on page 1 of this report is an extensive review of the Education Amendments of 1980, with emphasis on student aid and other programs of particular interest to the College Board membership. Below are some general observations on legislative outcomes and unresolved issues as the law now enters the phase of regulatory interpretation by the executive branch.

Costs and Priorities. Much of the Congressional debate on the bill -- and the primary reason the Senate rejected the first conference report -- centered on its costs to the federal Treasury. 1980 has been a year of intense budget battles in Washington. Along with multi-billion dollar questions of funding for expanded military systems and servicemen's compensation, the budget committees in Congress have become concerned with the costs of student aid, particularly Guaranteed Student Loans (GSL) -- also now a multi-billion dollar issue.

Long negotiations punctuated by stalemate and heated debate led to a variety of changes in federal loan policy. We attempt to detail the complicated outcome in the attached review. In essence, the final law leaves the GSL program largely intact, raising the interest rate by two percentage points, from 7 to 9 (for new borrowers only) and authorizing a new parental loan plan. The law also opens the way for restructuring and expanding the National Direct Student Loan (NDSL) program (by borrowing funds through the federal Treasury) with the aim of allowing more needy students to borrow under NDSL and thereby reducing the demand for GSL. Under the alternative financing scheme, institutions could retain their 10 percent share of NDSL revolving funds, but the balance would revert to the federal government.

Estimates by the Congressional Budget Office (CBO) suggest that the new loan scheme could save funds in fiscal year 1981, primarily because of the provision allowing the federal government to recoup collections from outstanding NDSL notes, amounting to approximately $378 million in fiscal year 1981. (This assumes that the alternate NDSL funding mechanism is adopted and that it can be made operational in time to have an impact in FY 1981, neither of which is assured.) In the long run, however, the CBO projections suggest that the revised loan plan could be more expensive than current policy.

Whatever the precise estimates -- and CBO acknowledges a margin of error because of the assumptions and limitations of available data -- it appears that P.L. 96-374 will not put any substantial rein on either volume or expense of the loan programs. With all students eligible for fully subsidized loans since Congress passed the Middle Income Student Assistance Act two years ago, GSL costs have soared -- from less than $500 million in fiscal year 1978 to a projected $2 billion in 1981.

As long as market interest rates remain high, government-guaranteed student loans (whether at 9 percent or 7) will remain highly attractive to students and parents, and costs to the federal government will continue to increase. Alone among programs authorized by the Higher Education Act, appropriations for GSL are non-discretionary. The government is obligated to finance the costs (in-school interest subsidies, default claims, special allowances to banks) associated with GSL. In effect, the program functions as an entitlement for student borrowers, regardless of income or need, who can find a willing lender.

The Education Amendments of 1980 establish increased funding levels for virtually all the other programs under the Higher Education Act. But yearly appropriations will determine the actual rate of expansion of these programs over the next five years. The BEOG maximum, for example, is authorized to increase in steps, reaching $2,600 in fiscal 1985, but whether student "entitlements" under the BEOG formula can be satisfied will depend on annual decisions by the budget and appropriations committees.

A major issue of federal higher education policy in the early 1980s will be the extent to which the costs of student loans will restrain the growth of other higher education programs, particularly need-based student grants designed to equalize educational opportunity. Such a budgetary "trade-off" was already in evidence last summer when the appropriations committeescut 1980 funds for Basic Educational Opportunity Grants (BEOG) while adding $650 million for unanticipated, mandatory expenses of Guaranteed Student Loans.

Student Aid Delivery: Need Analysis. The legislation calls for a single schedule of family contributions to govern both BEOG (renamed "Pell Grants") and the campus-based federal programs (Supplemental Grants, Work-Study, NDSL). The law is quite specific on many features of the system, such as the rate of assessment against discretionary income (a flat 14 percent up to income levels of $25,000 adjusted gross); asset protection (total exclusion of home equity); and liberalized treatment of independent students.

Some of the provisions present technical difficulties. The bill allows the Secretary to set an income assessment rate (or rates) other than 14 per-

cent for families with adjusted gross income over $25,000 -- a provision written in such a way that there will be inevitable problems of equity and consistency in the treatment of families above and below the threshold. In the definition of "effective family income," the bill makes allowance for state and local income taxes but not other types of state and local levies -- an inequity for residents of parts of the country that rely heavily on property and sales taxes.

Overall, the new provisions will expand the pool of eligible students and the volume of computed need for the campus-based programs (though the extent of liberalization in upper-income ranges will partly depend upon what rates, if any, are set by the Secretary other than 14 percent). At the same time, the system will be relatively stringent at lower-income levels, expecting substantially more from low and moderate-income families than the Uniform Methodology, currently the most widely used system for awarding campus-based monies. (See Appendix to this report for comparison of estimated results of new Congressional standard with the Uniform Methodology.) In the campus-based programs, the new federal standard could significantly alter the allocation of funds among institutions and shift the concentration of student benefits further up the income scale.

Another possible consequence of the legislative provisions for "need analysis" is that many institutions and states may not be willing to use or able to afford the federal standard in awarding their own (non-federal) student aid monies. Such institutions and states may decide to use other, independent systems to award their own funds, thus spawning multiple standards of need -- exactly the opposite of what Congress hoped to achieve by the new law.

Student Aid Delivery: Common Form. P.L. 96-374 also calls for a common federal application form, free of charge to the student, to be used in determining eligibility for both BEOG and the campus-based programs. But the law permits the "simultaneous collection" of additional data required by states and institutions for awarding their own student aid funds. The legislation also insures continuation of a decentralized process similar to the current Multiple Data Entry system.

Timing of Program Changes. The first common federal application form will be implemented for the 1982-83 award year (1981-82 processing year), in tandem with the implementation of the new federal need analysis system. For the interim year (1981-82 award, 1980-81 processing), the current application and delivery system will continue. Even with the interim year, the timetable for transition to a new federal system will be tight.

The interest rate and other changes in the Guaranteed Student Loan Program are effective as of January 1, 1981. However, most of the changes in Supplemental Educational Opportunity Grants (SEOG), College Work-Study (including required payment of the minimum wage), and NDSL have an effective date of October 1, 1980 and are to be implemented immediately. Implementation of some changes must await publication of administrative rules.

NOTE: The Department of Education will soon circulate a "Dear Colleague" letter to alert institutions to changes that must be observed or carried out right away. Certain amendments, such as those affecting NDSL and required payment of the minimum wage under Work-Study, will in some cases require special procedures to make them retroactive to October 1.

Technical Amendments? In any legislation of such size and complexity, there are bound to be ambiguities, drafting errors, and unintended effects that come to light after the bill is passed. Almost before the ink was dry, Department of Education personnel, higher education association representatives, and Congressional staff were discussing the need for technical amendments to P.L. 96-374. Some of the problems can likely be smoothed over through consultation and subsequently by regulation. Others will require statutory changes.

As long as the amendments are indeed "technical," Congress can be expected to accept necessary changes with little debate. But how soon Congress might get around to technical amendments is in question. The 96th Congress will return to an extremely full agenda after the November elections. Partly depending on the outcome of those elections, the lame-duck session may be reasonably productive, or the atmosphere could be contentious and conducive to the passage of only the most essential bills.

Outlook for Funding. Among matters crowding the Congressional agenda will be appropriations for fiscal year 1981. Because the regular appropriation bills (thirteen in all) were not enacted before the October 1 start of the fiscal year, all federal programs are now on a continuing resolution through December 15, 1980. Under this resolution, higher education programs continue at either their 1980 spending levels or the House-passed fiscal year 1981 appropriation level, whichever is lower.

Even under the best conditions, Congress may not be able to complete action on all regular appropriations during the lame duck session, in which case the continuing resolution will be extended until the 97th Congress convenes next year. While major student aid programs are funded a year in advance and hence are not immediately threatened by such a worst case scenario, delays in the next Congress could complicate campus and student decision timetables. As long as the continuing resolution is in force, no expansion of existing programs (or start-up funds for programs newly authorized by the Education Amendments of 1980) is possible.

National Commission on Student Financial Assistance. One forum for further study and debate on issues not fully resolved by the Education Amendments of 1980 may be the National Commission on Student Financial Assistance called for by the new law. The Commission will have 12 members -- four each appointed by the President, the Speaker of the House, and the President pro tem of the Senate. The Commission's final report is due for submission to Congress no later than July 1, 1983. However, the Commission's work presumably will not get underway until operating funds have been appropriated. The law authorizes $10 million a year for the purpose but, as noted above, the timing and prospects for fiscal 1981 funding are clouded.

Other Student Aid Legislation. Apart from P.L 96-374, the 96th Congress has dealt with two other pieces of legislation affecting aid to postsecondary students. First, Congress passed the GI Bill Amendments of 1980, providing a 10 percent increase in veterans education benefits beginning in the current fiscal year.

Also, legislation is still pending in Congress to replace the Health Professions Educational Assistance Act of 1976 and the Nurse Training Act of 1979. The new bill includes a number of financial aid programs for

students in the health professions, most of which are extensions of current law. The Senate version, however, replaces the Health Professions Student Loan and Nursing Student Loan programs with a new service-contingent loan program, and also cuts back on the number of National Health Service Corps scholarships. In addition, it authorizes the expenditure of federal matching funds for state scholarship programs established along the lines of the federal Health Service Corps. Health professions legislation has been approved by both the House and the Senate; a conference committee is expected to iron out House-Senate differences during the November-December Congressional session.

* * * *

A title-by-title review of amendments to the Higher Education Act as provided by P.L. 96-374 follows.

THE EDUCATION AMENDMENTS OF 1980

Summary of Changes in the
Higher Education Act

Title I - Continuing Postsecondary Education Program and Planning

The Education Amendments of 1980 substantially revise Title I of the Higher Education Act to reduce barriers to continuing education for adults, particularly those whose educational needs have been inadequately served in the past.

Part A of the title establishes a three year "Commission on National Development in Postsecondary Education," a 25 member "blue ribbon" panel to review the effectiveness of federal policies in postsecondary education and the capacity of higher education institutions to respond to changing national conditions and needs. The Commission is also mandated to conduct a study of adult postsecondary students' needs and the ability of institutions to respond to them.

Part B, titled Education Outreach Programs, consolidates the former Title I of the Higher Education Act with the Educational Information Centers program (formerly Title IV A, Subpart 5) and the State Postsecondary Education Commissions (formerly Section 1202). The emphasis of the new program is two fold. It focuses attention on barriers to access for adults, particularly those "who because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education or other significant barriers have been discouraged from obtaining equal education opportunities." Secondly, it simplifies the federal-state partnership by drawing together the three state-based federal higher education programs of planning, information services and continuing education.

The new Title I greatly broadens eligibility for contracts and grants to include community groups, business, labor, public and private organizations, as well as postsecondary educational institutions.

As with the old Title I-A, 90 percent of appropriations are allotted to the states. Ten percent of the funds are reserved to the Secretary of Education for grants for national or regional activities promoting access to education for adults, particularly the underserved.

Of the sums allocated to the states, 40 percent are divided evenly and 60 percent are divided on the basis of adult population (old Title I was allotted on the basis of total population). No state is to receive less than $187,500 thus assuring small states sufficient funds to operate in years of low appropriations. (The combined level of funding in fiscal year 1980 for the three programs consolidated in Title I is $15 million.)

From its total allotment, each state then allocates funds to the three services under the new Title I as follows:

- Comprehensive statewide planning and planning for continuing education, 15-20 percent;

- Information services (as in the current Educational Information Centers program), 12 percent or $50,000 whichever is greater; and,

- Continuing education activities through grants and contracts to eligible providers, balance of allotment or 65-70 percent.

Title II - College and Research Library Assistance and Library Training and Research

The legislation reorganizes Title II but retains most of the current provisions.

Part A continues as a general source of library aid with grants doubled from $5,000 to $10,000 per year.

Part B continues the current program of library career training; consolidates and continues research and demonstration into a single program with a new emphasis on information transfer techniques and communications technology; and modifies and shifts the special purpose grants (formerly under Title II, Part A) to Part B. Part B funds are to be evenly divided among these three programs.

Part C designed to strengthen research libraries is continued more or less unchanged from the old law.

Part D establishes a nonprofit corporation to study the feasibility of a National Periodical Center.

Title III - Institutional Aid (Developing Institutions)

Title III underwent substantial change in the reauthorization, emerging in three parts:

- Part A "Strengthening Institutions"

- Part B "Aid to Institutions with Special Needs"

- Part C "Challenge Grants"

The first two parts are similar to the former Title III program, with some broadening of eligibility and a change in the grant structure. Adverse Congressional and media attention over the past two years, which highlighted both confusion in the Title's purposes and problems in administration, contributed to changes in the program. The statute tightens application and grant review procedures and specifies in detail many operational aspects of the program.

The Title III program has since its inception been a major source of institutional support for historically Black colleges. The changes instituted in Parts A and B may alter the focus of the program and eventually restrict future increases in funds going to Black colleges.

Part A is aimed at improving academic quality and institutional management. Included in the list of eligible activities are faculty development and improvement of academic programs. Aside from the standard institutional eligibility requirements, the statute includes two new quantitative factors: (1) high percentage of "Pell Grant" (the new name for a Basic Grant) recipients whose average awards are high in comparison with the grant averages at similar degree-granting institutions, and (2) low average educational and general expenditures per undergraduate FTE in comparison with institutions that offer similar instruction. Twice the weight is given to the Pell Grant factor as to the E&G expenditure factor. In specified cases, the Secretary may waive the eligibility criteria.

The historically Black colleges should be at an advantage under these criteria since they serve largely a low-income clientele with high average grants. In many historically Black colleges, over ninety percent of the enrolled students receive a Basic Grant and many students receive the maximum amount. The new rules for eligibility under P.L. 96-374 are similar to administrative regulations already in force. Under the regulations, most if not all of the historically Black colleges were determined to be eligible for Title III funds. The new legislation probably will not greatly change the universe of eligible institutions.

However, the combination of two other requirements in the law may restrict the growth of funds for the historically Black colleges. Some grants under Part A will be three-year renewable grants while others will be nonrenewable grants of four to seven years duration. A minimum of 25 percent of the appropriation must be used for the nonrenewable grants. To the extent historically Black colleges receive nonrenewable grants, program funds over the long run may shift away from them. Also, the community college set-aside of funds must be at least 24 percent instead of up to 24 percent as in the old law.

Part B is designed to provide grants of up to five years to assist institutions with special needs to strengthen their planning, management and fiscal capabilities. The eligibility criteria for this program are similar to those of Part A except that:

- The Pell Grant criterion is replaced by one which counts all federal need-based student assistance.
- The student assistance factor and the E&G expenditure factor are weighted equally; and
- An eligible institution must have a FTE enrollment of at least 100.

As in Part A, the Secretary may waive the requirements and may consider other criteria for determining eligibility.

A number of funding requirements were added to Part B, including: raising the community college set-aside from 24 to 30 percent; assuring the historically Black colleges at least 50 percent of what they received under old Title III in FY 79; and providing for federal cost sharing. Under cost sharing the federal portion is 100 percent in the first year

and decreases in steps each year until the federal portion reaches 70 percent in the fifth year of the grant.

For several reasons the number of eligible institutions under Part B may be considerably larger than under the old Title III. Many previously ineligible institutions use the federal campus-based aid programs extensively and may therefore be brought into the eligibility by the more comprehensive student assistance factor in the Part B formula. Also, many such institutions have low E&G expenditures and this factor will carry equal weight in the formula. In addition, there will be more funds going to community colleges since the proportion of funds set aside for them must be at least 30 percent of the program's appropriation. The effect of the expansion of the number of eligible institutions and the increased community college set-aside may be to reduce over time the amount of funds going to historically Black institutions.

Part C is a new institutional matching program which is open to all undergraduate institutions eligible under Parts A and B, and to others which are ineligible for A and B because they grant postgraduate degrees. In addition, these requirements may be waived by the Secretary in the case of an institution that contributes substantially to medical education opportunities for minorities and the economically disadvantaged.

Title IV - Student Assistance

Basic Educational Opportunity Grants (BEOG)

P.L. 96-374 renames BEOG "Pell Grants" in honor of the program's original sponsor, Senator Claiborne Pell. The bill also makes changes affecting grant levels and student eligibility.

- Maximum grants are increased in stages from $1,900 in academic year 1981-82 to $2,600 in 1985-86.
- The "half-cost" limitation is modified as maximum grant levels increase, eventually permitting Pell Grants to meet 70 percent of the costs of attendance when the maximum reaches $2,600.
- The method of calculating grant reductions when funds are insufficient to pay full "entitlements" is altered to provide more protection for the lowest-income students than in past law.
- The student eligibility period is changed from five academic years to the period required for completion of the first baccalaureate course of study, including any periods of noncredit or remedial study deemed necessary by the institution.

The bill continues to require that SEOG, SSIG, CW-S, and NDSL be funded at specified levels before BEOGs can be funded. However, the "triggers" are not effective if the maximum BEOG does not exceed $1,800. Moreover,

language in the conference committee report (as opposed to the bill itself) expresses the Senate's view that these triggers are advice to, but not binding on, the appropriations committees.

The bill also states a new purpose (perhaps more symbolic than concrete) for Pell Grants: to meet 70 percent of a student's cost of attendance not in excess of $3,700 (in 1985-86), and, along with SEOG, SSIG, and the family contribution, to meet 75 percent of such costs.

Pell Grant awards to students will be affected by changes in the way financial need is calculated (see section below on General Student Aid Provisions: Need Analysis). Because the changes in need analysis will expand potential eligibility for the program, the federal appropriation level needed to meet all "entitlements" will increase.

Below is a table showing the distribution of Pell Grants before and after the effect of the new legislation, reflecting changes both in need analysis and increases in the percentage-of-cost limit and maximum award levels.

Distribution of Pell Grants in 1979-80 and
Under the New Statute
(At Full Funding)

	1979-80		New Statute	
	Dollars	Recipients	Dollars	Recipients
	(in percent)		(in percent)	
Type of Student	100	100	100	100
Dependent Students	77	79	75	78
$ 0-9,000	28	23	24	20
9,000-15,000	24	21	25	22
15,000-25,000	17	21	19	23
25,000 and over	8	15	7	12
Independent	23	21	25	22
Type of Institution	100	100	100	100
Public 4-Year	49	49	47	47
Public 2-Year	23	25	25	26
Private	22	22	22	22
Prop.-Voc.	6	5	6	6

(Note: Figures may not add precisely due to rounding.)

Assuming full funding of the program, no economic group or category of institution loses absolutely as a result of the changes in Pell Grants under the new legislation. The percentages above only indicate proportionate shifts among recipient groups, and the shifts are not major. The table shows that those in the two middle income brackets gain modestly relative to other income levels, as do independent students relative to dependent students. Similarly, public two-year colleges gain slightly relative to other types of institutions, mainly because of the increased number of independent students made eligible for the program.

Supplemental Educational Opportunity Grants (SEOG)

The new law:

- Continues to provide separate initial year and continuing year authorizations for SEOG.
- Increases the maximum grant to $2,000 annually and repeals the cumulative limit of $4,000.
- Eliminates the provision limiting SEOG to one-half the amount of financial aid provided to a student by an institution of higher education.
- Changes the long-standing SEOG eligibility requirement by allowing aid to students with "financial need" rather than "exceptional financial need" as in past law.
- Eliminates the limitation on the number of years a student is eligible for SEOG.

The law also says that institutions:

- May divide their SEOG allocations among initial year and continuing year students in any proportion they see fit. In the past, institutions have had to use initial year allocations for initial-year students and continuing year allocations for continuing-year students unless they receive permission from the Department of Education to switch funds from one purpose to the other.
- May use up to 10 percent of their allocations for less-than-half-time students.

Congress made several changes governing SEOG allocations to states and institutions. These changes will interact with each other in ways that make it difficult to predict exactly what the effects on individual institutions will be. First, Congress changed the enrollment-based interstate allocation formula (by which initial-year funds are distributed to states) to eliminate consideration of graduate students. Hereafter the formula will reflect only full-time and the full-time-equivalent of part-time undergraduates. Since states differ in the proportions of graduate and undergraduate students they enroll, changing the formula will change the proportions of initial year allocations going to each state. Preliminary analyses indicate that most of the shifts will be relatively minor, with each state's share of total national enrollment changing less than one-quarter of 1 percent. Only California, New York, and Washington appear to lose more than a quarter of a percent of total enrollment shares when undergraduates rather than all students are counted.

Second, Congress specified in the law for the first time how SEOG funds allotted to each state should be divided among institutions within the state. The legislators adopted the "fair share" approach currently used by the Department of Education to distribute SEOG monies, but changed

the "fair share" formula somewhat. This formula determines each institution's need for SEOG funds by subtracting from the total cost of education the amount of assistance students have available from family resources and other sources of aid. Under departmental regulations the current formula is:

"Fair share" = .70 (cost of education) - (effective family contribution + BEOG + state grants + .50 (institutional grants))

Under the new law, the "fair share" formula will be:

"Fair share" = .75 (cost of education) - (effective family contribution + BEOG + SSIG + .25 (institutional grants))

Thus, under the new law institutions will only have to count 25 percent of their own grants and that portion of state grants which represent federal SSIG and state SSIG matching dollars. Legislators made these changes to avoid penalizing states and institutions that increased their own student aid efforts.

However, the effects of changes in the formulas (both interstate and "fair share") may be overridden or muted because Congress added to SEOG a "hold-harmless" provision assuring institutions 100 percent of the funds they used in academic year 1979-80 as long as SEOG appropriations are less than $400 million. This guaranteed percentage falls in stages to 20 percent when SEOG appropriations increase to between $460 million and $480 million.

State Student Incentive Grants (SSIG)

The law:

- Ends the practice of separate initial and continuing year authorizations for SSIG.
- Makes graduate students and less-than-half-time students eligible for SSIG if states choose to include them.
- Increases the maximum grant to $2,000.
- Modifies the requirement that SSIG be available to students in all nonprofit institutions, thus exempting states that enacted contrary laws before October 1, 1978.
- Repeals the bonus allotment for states with loan guarantee agencies.

It also creates a new maintenance-of-effort requirement: states must maintain their grant effort at the level of the average aggregate level of the previous three fiscal years or of the average level per FTE student for the previous three years.

The legislation guarantees each state that it will continue to receive at least as much federal SSIG money as it received in fiscal year 1979.

College Work-Study (CW-S)

The Amendments remove the previous emphasis in CW-S on students with "great financial need". They also provide that institutions:

- May use no more than 10 percent of their CW-S funds for less-than-half-time students.
- Must receive at least their FY 1979 allocations unless there has been a "substantial" decline in enrollment.
- Must pay the minimum wage.
- May carry up to 10 percent of their CW-S funds forward or backward one year.
- May use up to $25,000 of their CW-S allotments for the job location and development program.
- May use up to 10 percent of their CW-S administrative allowances to establish community service learning programs.
- Must "provide assurances that (CW-S) employment... will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance."

The legislation also creates a set-aside of 50 percent of reallotment funds for institutions having cooperative education programs.

National Direct Student Loan (NDSL)

The Education Amendments of 1980 authorize two approaches to NDSL. Under the first approach:

- The current structure of NDSL is retained, as is the current $286 million trigger in annual federal capital contributions (the amount required to be appropriated before BEOGs can be awarded).
- Authorization levels increase as follows:

  1981 - $400 million
  1982 - $400 million
  1983 - $475 million
  1984 - $550 million
  1985 - $625 million

Under the second approach:

- The Secretary may raise capital for NDSL by borrowing through the Treasury Department or the Federal Financing Bank. Such borrowing is contingent on authorization in appropriations bills and on terms approved by the Secretary of the Treasury. The decision as to whether and how much to borrow is determined by the annual appropriations process.

- Funds from borrowing by the Secretary would be allocated directly to institutions, not subject to state allocations. Institutional allotments would be based on institutional need, taking into account cost of attendance, student need (as provided under the Act's need analysis section), and available financial assistance (but not GSL). However, institutions are guaranteed the amount they received in fiscal year 1980, and no institutional match is required.

- In years in which the Secretary borrows $1 billion, repayments on loans made under the old NDSL program (or the campus "revolving funds") -- minus the institution's 10 percent share -- revert to the federal Treasury. Likewise repayments on loans made with funds from the Secretary's borrowing also revert to the Treasury and would continue to do so regardless of whether or at what level the Secretary borrows.

- Institutions would have the option to: originate loans only and receive a $10 per loan administrative payment; or originate and service loans and continue to receive the full administrative allowance.

Under both approaches to NDSL:

- The interest rate for NDSL is increased from 3 percent to 4 percent.

- The "grace period" prior to beginning repayment is set at 6 months instead of the current 9 months.

- Collection practices are amended to require the Secretary of Education:

  -- to provide postsecondary institutions with the names and addresses of borrowers;

  -- to enter into agreements with credit bureaus to exchange information on cases of defaulted NDSL borrowers referred to the Secretary for collection.

- Aggregate loan limits are increased for:
  - -- students having completed two years of a program toward the baccalaureate: $6,000 (previously $5,000);
  - -- other undergraduates (those in their first two years): $3,000 (previously $2,500);
  - -- graduate/professional students: $12,000 (previously $10,000).
- Deferral of repayment is extended to four additional categories of borrowers:
  - -- officers in the Commissioned Corps of the Public Health Service;
  - -- full-time volunteers in service comparable to that of Peace Corps or VISTA, for a non-profit organization (as defined by Section 501 (c)(3) of the Internal Revenue Code);
  - -- those serving a required internship before commencing professional practice or service; or,
  - -- those disabled due to illness or injury and unable to attend an institution of higher education or be gainfully employed (as established by a physician's affidavit), or the spouse of someone who is disabled and requires their continuous care.

Guaranteed Student Loans (GSL)

P.L. 96-374 continues the Guaranteed Student Loan (GSL) program and authorizes a new parent loan program. The old GSL program is modified by the following changes:

- As of January 1, 1981, the interest rate on GSL's is increased from 7 percent to 9 percent for new borrowers, not new loans. An individual who has borrowed under GSL at the old rate of 7 percent (and still has an outstanding balance) continues to borrow at 7 percent. It is estimated that the shift from 7 percent to 9 percent will achieve $450 million in long-term savings to the federal government.

  If the Secretary determines that the average annual rate on 3-month Treasury bills is 9 percent or less, then the interest rate on GSL is reduced to 8 percent. If such a determination is made, borrowers who began borrowing at 9 percent are able to have these loans consolidated at the 8 percent rate when they begin repayment. (See discussion on consolidation below.)

Moreover, if the GSL interest rate is reduced to 8 percent and interest rates on Treasury bills subsequently go back up again, the GSL interest rate would not increase, but would remain at the 8 percent level, requiring Congressional action to raise it again.

- The annual loan limits of $2,500 per year for undergraduates and $5,000 per year for graduate and professional students are continued. In addition, a new provision authorizes up to $3,000 per year in borrowing by independent students.

- The aggregate loan limits under the GSL are increased and a new provision is made for independent students:

	Old	New
Undergraduate-dependent	$ 7,500	$12,500
Undergraduate-independent	--	15,000
Graduate/Professional	15,000	25,000

In addition, the Secretary may allow higher levels of aggregate borrowing by students in programs which the Secretary finds are "exceptionally expensive," such as health fields.

- Certain borrowers of Guaranteed Student Loans and NDSL's may seek consolidation and extended and more flexible scheduling of their repayments -- including graduated or income sensitive terms of repayment -- from the Student Loan Marketing Association (SLMA) and from state guarantee agencies.

  To be eligible for consolidation, including rescheduling, a borrower must have loans:

  -- from more than one lender; or,

  -- under two or more loan programs under Title IV (including NDSL) or other federally insured or guaranteed loan programs not in the Act in excess of $5,000; or

  -- from one source in excess of $7,500.

- The "grace period" between termination of enrollment and start of repayment is reduced from 9-12 months to 6 months.

- As in the NDSL program, four new categories of deferral of repayment are added (see above).

- The legislation does not include the proposal advocated by Senator Metzenbaum (D.-Ohio) for repayment of the in-school interest subsidy by non-needy borrowers. However, the law does authorize a special study of interest subsidies. The National Commission on Student Financial Assistance, authorized by the Amendments, is to report its findings in one year.

- Building on the direction set in 1976, the role of state loan guarantee agencies is expanded.

  -- State loan agencies are authorized to act as "lenders of last resort" to students who are unable to receive student loans through regular commercial sources. State agencies may receive advances from SLMA to enable them to make such direct loans to students.

  -- State agencies are given responsibility for ascertaining the enrollment status of student borrowers and auditing the loan note for consistency with its records on the amount guaranteed and with the repayment requirements of the law.

  -- To increase lender participation state agencies are encouraged, through inclusion as allowable administrative costs, to provide lenders with interest and special allowance computation and billing services, and to serve as escrow agents for lenders for the making of multiple disbursements of loans to students. (This multiple disbursement policy -- rather than single lump sum payments -- is designed to reduce the size of defaults and was encouraged by the Education Amendments of 1976. But to date few lenders have instituted the practice.)

- The special allowance paid to states on loan funds derived from the sale of tax exempt bonds is reduced by one half.

- A new parent loan program is authorized with most of the same provisions as for the student GSL. Parents may borrow up to $3,000 per year, and a total of $15,000 per student, at 9 percent. (As in the student GSL, if the annual average rate on 3-month Treasury bills is found to be 9 percent or less, the interest rate on parent loans drops to 8 percent on the unpaid principal balance.) Repayment begins within 60 days -- there is no option for an extended deferral of repayment as included in the first conference report on the legislation.

Estimates vary widely on how much this new program will be used. The Congressional Budget Office conservatively projects relatively low volume -- $237 million for 81,000 loans in FY 81. The Administration on the other hand is, at this time, assuming a much higher volume of $2.5 billion for parent loans.

For fiscal year 1981, the Congressional Budget Office projects total GSL volume (both student and parent loans) at $6.14 billion. The Administration's estimate is between $7 and $8 billion.

Student Loan Marketing Association (SLMA)

Established in 1972 as a "government sponsored private corporation" to provide a secondary market and warehousing mechanism for guaranteed student loans, the Student Loan Marketing Association, or SLMA, is strengthened and made more independent by the new legislation. As a signal of this intent, the phrase "government sponsored" is struck from SLMA's establishment clause. Among the changes affecting SLMA are the following:

- The Amendments extend SLMA's access to the full faith and credit backing of the federal government from 1982 through September 30, 1984. Even after that date, SLMA could sell securities to the Federal Financing Bank if they are backed by student loans. It may also be able to issue debentures to the Secretary of the Treasury.

- Several changes give SLMA authority to set terms and conditions previously set in law or reserved in whole or in part to the Secretaries of Education and Treasury -- both of whom have more limited authority under the 1980 Amendments.

- The Amendments expand SLMA's ability to attract investors by adding a new category of non-voting common stock, open to anyone, and give SLMA more authority to set terms and conditions in all three forms of its stock.

- The Amendments modify the terms of SLMA's warehousing advance program. Old law provided that SLMA could not advance funds under this program in excess of 80 percent of pledged collateral. Moreover, such collateral had to be in the form of insured student loans. Old law also required borrowers to reinvest the total advanced to them in insured loans. The Amendments give SLMA the discretion to decide how much collateral should be required. Also, collateral need no longer be insured student loans only, but may be other government-backed or insured obligations. The requirement to reinvest proceeds from an advance secured by insured

student loans is modified to allow for either reinvestment in additional student loans or assurance by the lender that it will maintain the same aggregate level of loans. However, those advances which are secured by other government-backed or guaranteed obligations must still be invested in student loans.

- While changes instituted since 1976 have alleviated the problem of inaccessibility of loan funds, they have not eliminated it. Accordingly, SLMA is authorized to loan or advance funds to state or non-profit loan guarantee agencies operating as lenders of last resort in states facing a serious shortage of loan capital. In addition, where there is no state agency and a substantial proportion of borrowers are unable to obtain loans, or where such an agency does exist but is unable to meet the demand of borrowers, the Secretary can ask SLMA to step in as a direct "lender of last resort." (SLMA could continue to serve as a direct lender until either the situation abated or its presence impedes improvement by a state.)

- As noted in the earlier discussion of GSLP, SLMA directly or a designated state agency may consolidate loans for certain eligible borrowers when they enter repayment.

General Student Aid Provisions: Need Analysis

Publication and Adoption of the Family Contribution Schedule

Section 482 of the amended Higher Education Act reads in part:

"The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register."

- Programs covered: BEOG, SEOG, NDSL, CW-S.

- Date of publication and submission to Congress: July 1, 1981; April 1 in each year thereafter.

- Date by which House or Senate must act if either disapproves: October 1, 1981; July 1 in each year thereafter.

Treatment of Dependent Students

- Basic criteria to be used in developing family contribution schedule:

  -- Effective income of the family;

-- Number of dependents in the family;

-- Number of dependents who are in post-secondary education;

-- Amount of assets of the student and those of the family;

-- Any unusual expenses of the student and his family, such as unusual medical or catastrophic expenses;

-- Any educational expenses of other dependent children in the family.

- Definition of effective family income: Annual adjusted family income, as determined by regulations, minus federal as well as state and local taxes paid or payable with respect to such income. Includes Social Security educational benefits paid on behalf of the student and one-half of veteran's educational benefits. Also includes student effective income after an offset determined under regulations prescribed by the Secretary.

- Tax rate on discretionary income: Mandates an assessment rate of not more than 14 percent to be applied to discretionary income of families whose adjusted gross income is $25,000 or below. The Secretary may set another rate or series of rates for families "with adjusted gross incomes which exceed $25,000 ... for income in excess of $25,000."

- Asset treatment:

  -- Excludes all equity in a single principal place of residence from computation of assets;

  -- Requires deduction of not less than $10,000 from net value of all assets;

  -- If net assets include farm or business, requires an additional asset reserve of not less than $50,000.

See Appendix for estimated parental contributions that result from the new system, as compared with the Uniform Methodology.

Treatment of Independent Students

Section 482 of the law also says:

"The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth (in respect to dependent students)." The law goes on to specify:

- That the asset reserve and the rate of taxation on assets for an independent student with one or more dependents shall be the same as that for the family of a dependent student.

- That the allowance for subsistence requirements for single independent students shall be calculated according to the same method as for all other students.

- That the rate of assessment against discretionary income for independent students with dependents shall be the same as the assessment rate applied to a family of a dependent student.

- That a married student shall be automatically considered independent if, "notwithstanding prior dependency status," such student in the year of application will not live with the parents for more than six weeks, will not be claimed as a dependent on any federal tax return, and will not receive more than $750 in support from parents.

Cost of Attendance:

- Section 482 also provides common definition of costs of attendance for purposes of all programs under Title IV of the Higher Education Act. Costs include:
  - -- Tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;
  - -- Allowance for books, supplies, transportation, and personal expenses;
  - -- Allowance for room and board based on institutional estimates for students living on and off campus (but not less than $1,100 in the case of students without dependents living with their parents);
  - -- Allowance for child care in the case of students with dependents;
  - -- Allowance for special expenses of handicapped students.

General Student Aid Provisions: Application Process

- Section 483 of the amended Higher Education Act mandates a common federal application form as follows:

  "The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under [BEOG, SEOG, CW-S, NDSL]. No student or parent of a student shall be charged a fee for processing the data elements of the form prescribed by the Secretary. The Secretary shall, to the extent practicable, enter into not less than three contracts with states, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary may also contract for additional services to assure coordination of financial aid from both federal and non-federal sources, and to provide information, training and similar services to institutions, aid officers, counselors, lenders, parents and students. Nothing in this section shall prohibit states, institutions, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds [other than BEOG, SEOG, CW-S, NDSL]."

  Note: With regard to the collection of additional data elements, House-Senate conferees state in their report on the bill that the phrase "simultaneously collecting" means "appending to or incorporating into."

- The law also authorizes the Secretary of Education to develop a "common pre-eligibility Federal Financial Aid Form," designed to provide early notice to students of their potential eligibility for financial aid.

General Student Aid Provisions: Administrative Allowances to Institutions

- The law revises the sections providing administrative allowances to institutions under BEOG and GSL to make the payments automatic rather than discretionary. Under the discretionary provisions of the old law, BEOG and GSL administrative allowances were never funded. For academic year 1980-81, however, the Department of Education says it will pay these

allowances, which amount to $10 for each BEOG and GSL recipient. This should mean that institutions will receive about $25 million for BEOG and $25 million for GSL administrative expenses. The new law specifies that these allowances must be used solely to offset costs incurred in administering BEOG and GSL.

- The law also revises the administrative set-aside under the campus-based programs. Currently institutions receive an allowance of 4 percent of their SEOG, CW-S, and NDSL expenditures up to a maximum of $325,000. The new law changes this allowance to 5 percent of the institution's first $2.75 million in campus-based expenditures, plus 4 percent of the next $2.75 million and 3 percent of additional amounts. This new formula should increase the allowances flowing to institutions under the campus-based programs by about $10 million, from $46 to $56 million. The law also changes the language governing use of these funds, shifting from a focus on student information (though provision of such information is still required) to the direct costs of administering campus-based programs.

National Commission on Student Financial Assistance

- The law creates a 12-member national commission to make a $10 million study of issues in graduate and undergraduate student aid, with a report due to Congress by July 1, 1983.

Special Programs for Students from Disadvantaged Backgrounds (TRIO)

P.L. 96-374 continues the following Title IV student support service programs, familiarly known as "TRIO":

- Talent Search;
- Special Services for Disadvantaged Students;
- Upward Bound; and,
- Educational Opportunity Centers.

The major thrust of the amendments to the TRIO programs is to simplify the criteria for eligible participants and to delineate more clearly in the law the roles of the several TRIO programs.

Under the Amendments, not less than two-thirds of eligible participants in each of the TRIO programs must be "first generation college students" (neither parent graduated from college) and low-income (family income less than 150 percent of the Bureau of Census poverty level in the previous year). Talent Search and Educational Opportunity Centers are

cast as community-based programs, with Talent Search focusing on youth and EOC's focusing on adults; Upward Bound is directed toward high school juniors and seniors; and Special Services is focused on students enrolled in postsecondary institutions.

The law repeals the never funded Service Learning Centers authority and shifts the Educational Information Centers program to Title I - Education Outreach Programs. The Amendments also bring the migrant and seasonal farmworker high school equivalency and college assistance programs (HEP/CAMP) into the Higher Education Act.

Title V: Teacher Corps and Teacher Training

The Teacher Corps program is continued, with each state guaranteed at least one Teacher Center. In addition, a new grant program to train higher education personnel and a new fellowship program to train elementary and secondary teachers of the handicapped are authorized.

Title VI: International Education

The new Title draws on Title VI of the National Defense Education Act and Title I of the International Education Act (which are repealed). Part A authorizes Graduate and Undergraduate Language and Area Centers; International Studies Centers; Undergraduate International Studies and Foreign Language Programs; and Research on international and foreign language studies. Part B establishes a matching grant program for postsecondary institutions entering into agreements with businesses or trade organizations to serve the international needs of the American business community.

Title VII: Construction, Reconstruction, and Renovation of Academic Facilities

The existing Title is consolidated and simplified, adding new priorities for research facilities renovation; construction to meet unusual enrollment increases; use of coal, solar, and renewable resources; and detection and removal of asbestos hazards. The interest rate on facilities loans is raised to 4 percent.

Title VIII: Cooperative Education

The program is continued with minor changes to permit both alternating and parallel periods of work or study and to increase the size of maximum grants to participating institutions.

Title IX: Graduate Programs

The amended Title IX of the Higher Education Act consolidates several existing graduate education programs and authorizes a new National Graduate Fellows Program.

Part A of the old law, Grants to Institutions, remains intact but is directed away from expansion and toward strengthening and improving existing programs.

Part B combines the public service, mining and graduate and professional studies programs into one program. Fellowships under this part must be allocated so that at least the same amount of money goes to the three types of scholarships awarded in fiscal year 79. Awards up to $4,500 will be made to students with financial need. Restricting awards in the three fellowship programs to needy students (subject to "hold harmless" provisions) may benefit disadvantaged students more than the present programs. Almost no data now exist on the current recipients of these programs.

Part C calls for a new program of National Graduate Fellowships for studies in the arts, humanities and the social sciences. Up to 450 awards of up to four years duration will be made annually to students chosen by a National Fellowship Board appointed by the President. Awards will go to needy students of high ability and promise in the relevant fields of study.

Part D retains the existing Council for Legal Education Opportunity (CLEO) program but increases its authorization from $1 million to $5 million in fiscal year 1981. The only change is to extend the period of preliminary training to individuals from three to six months.

Part E incorporates the Law School Clinical Experience program, transferred from the former Title XI of the Act.

The law does not specify procedures for determining student financial need under the Title IX programs.

Title X: Fund for the Improvement of Postsecondary Education

This program, previously authorized in the General Education Provisions Act, is transferred with very minor changes into the Higher Education Act as a new Title X.

Title XI: Urban Grant University Program

A new program of grants for urban universities is established to assist these institutions in finding answers to urban problems and to make their resources more available to their local communities.

Title XII: General Provisions

This Title changes current law (authorizing state "1202" planning commissions) to establish new functional requirements for state accountability for the use of federal funds under Title I (Continuing Education), Title IV (SSIG), and Title VII - A (Undergraduate Construction Grants). In addition, the National Advisory Committee on Institutional Eligibility is reconstituted to advise the Secretary on accreditation and institutional eligibility issues.

Appendix

Average Parental Contributions Under Two Systems

Income	Uniform Methodology (1981-82)	P.L. 96-374 Methodology*
$ 0 - 6,000	$ 2	$ 55
6,000 - 9,000	12	80
9,000 - 12,000	30	192
12,000 - 15,000	77	375
15,000 - 18,000	182	596
18,000 - 21,000	365	842
21,000 - 24,000	645	1,128
24,000 - 27,000	934	1,307
27,000 - 30,000	1,318	1,592
30,000 - 33,000	1,947	1,956
33,000 - 36,000	2,698	2,394
36,000 - 39,000	3,562	2,736
39,000 - 42,000	4,227	2,847
42,000 - 45,000	4,534	3,158

Source: Based on a sample of 10,000 cases from College Scholarship Service filing population randomly selected from a population exceeding two million. The computer program does not permit income breaks to be shown above $45,000. Figures are for all family sizes and families with one or more children in college. Data provided courtesy of Joe Paul Case, College Scholarship Service.

*Assumptions for figures in Column 2:

-- For comparison purposes the figures are parents' contributions that would be produced for 1981-82, although the new system under P.L. 96-374 will not actually be implemented until 1982-83.

-- Income includes parents' adjusted gross income, other nontaxable income, and 100 percent of student's Social Security benefits.

-- Allowances against income include U. S. income tax, state and other income taxes (allowance of 4 percent of total income), employment expenses (allowance of 50 percent of the lower income in a two-working parent family or of the only income in a single-parent family, to a maximum of $1,500), medical and dental expenses (allowance of amount in excess of 20 percent of total income), and family size offsets (based on Social Security Administration poverty threshold used by the Basic Grant Program). No allowance was assumed for FICA taxes.

-- Contribution rate of 14 percent applied to all remaining income to produce parents' contribution from income. Note: Under P.L. 96-374, the Secretary of Education may set other rates for families with adjusted gross income above $25,000. Thus the contribution figures shown in column 2 above this income level probably understate the amounts that will be expected once the Secretary actually publishes a family contribution schedule.

-- Home equity was excluded from assets.

-- Allowance of $10,000 is made against cash, savings, bank accounts, investments, and real estate other than a "single principal place of residence."

-- Allowance of $50,000 is made against business and farm assets.

-- Asset conversion rate of 5 percent is used to produce parents' contribution from assets.

-- Multiple enrollment in college is accommodated by multiplying the parents' contribution from income and assets by the same percentages presently used in the BEOG program (100 percent for one in college; 70 percent for two; 50 percent for three; and 40 percent for four or more.)

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